

1 Scott Edward Cole, Esq. (S.B. #160744)
2 Laura Grace Van Note, Esq. (S.B. #310160)
3 COLE & VAN NOTE
4 555 12th Street, Suite 2100
5 Oakland, California 94607
6 Telephone: (510) 891-9800
7 Facsimile: (510) 891-7030
8 Email: sec@colevannote.com
9 Email: lvn@colevannote.com
10 Web: www.colevannote.com

11 Attorneys for Representative Plaintiff

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13 **UNITED STATES DISTRICT COURT**
14
15 **NORTHERN DISTRICT OF CALIFORNIA**
16
17 **OAKLAND DIVISION**
18

19 JAMI ZUCCHERO, individually and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 v.

23 HEIRLOOM ROSES, INC.,

24 Defendant.

Case No. 22-cv-00068-KAW

CLASS ACTION

**DECLARATION OF CAROLE
THOMPSON ON BEHALF OF
SETTLEMENT ADMINISTRATOR
REGARDING SETTLEMENT
ADMINISTRATION AND IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF SETTLEMENT**

Date: May 2, 2024

Time: 1:30 p.m.

Judge: Hon. Kandis A. Westmore

1 I, Carole Thompson, declare as follows:

2 1. I am the Associate Director of Case Management for CPT Group, Inc. ("Settlement
3 Administrator" or "CPT"), the Settlement Administrator jointly agreed upon by the Parties and
4 approved by the Court for *Zuccherro v. Heirloom Roses, Inc.* I have personal knowledge of the facts
5 set forth in this declaration and, if called upon to testify, I could and would testify competently to
6 such facts. I submit this declaration in support of Plaintiffs' motion for final approval of the class
7 action settlement.

8 2. CPT has extensive experience in providing notice of class actions and administering
9 class action settlements. In the past 30-plus years, we have provided notification and/or settlement
10 administration services in thousands of class action cases.

11 3. As the Settlement Administrator in this matter, CPT was tasked with providing notice
12 and claims administration services as outlined in the parties' Class Settlement Agreement and
13 Release ("Settlement Agreement"). These responsibilities included, but were not limited to, the
14 following:

15 a. Disseminating the Summary Notice ("Email Notice") by email to all
16 Settlement Class Members for whom Defendant provided an email address.

17 b. Mailing the Summary Notice in a bi-fold format ("Postcard Notice"), to all
18 Settlement Class Members without a valid email address or whose email notice was undeliverable.

19 c. Establishing and maintaining a dedicated settlement website,
20 www.HeirloomRosesSettlement.com, which featured links to Court-approved documents,
21 facilitated online claim submissions, and provided current information about the case.

22 d. Establishing a dedicated 24-hour toll-free support line with Interactive Voice
23 Response (IVR) capabilities.

24 e. Reviewing and determining the validity of submitted claim forms.

25 f. Receiving/processing other communications about the Settlement such as
26 questions about the claims process, requests for exclusion, and objections.
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1 g. Preparing reports and summaries regarding the notice and claims process for
2 the Parties and the Court.

3 h. Performing such other tasks as set forth in the Settlement Agreement, or as
4 the Parties mutually agree to or that the Court orders.

5 **CAFA NOTICE**

6 4. On September 1, 2023, in compliance with the Class Action Fairness Act of 2005,
7 28 U.S.C. § 1715(b), CPT sent notification to the United States Attorney General, and the Attorney
8 Generals in all states and territories.

9 **CLASS LIST**

10 5. On August 18, 2023, CPT received data files containing the names, email addresses
11 and mailing addresses of Settlement Class Members.

12 6. Among these efforts, CPT conducted a comprehensive National Change of Address
13 (NCOA) search to update mailing addresses. The NCOA database effectively provided updated
14 addresses for individuals who had moved within the past four years and had informed the U.S. Postal
15 Service of their address change. This process resulted in the compilation of a master list of 51,907
16 Settlement Class Members (referred to as the "Class List").

17 7. The reduction in the count of Settlement Class Members from the initial tally was a
18 result of identifying duplicates within the records. To achieve this, CPT diligently scrutinized the
19 data, employing various criteria such as variations in names and addresses.
20

21 **CLASS NOTICE**

22 8. On December 22, 2023, CPT disseminated the Email Notice to 47,588 Settlement
23 Class Members for whom defendant provided a valid email address. As of the date of this
24 declaration, 377 emails bounced or were deemed undeliverable. Attached hereto as **Exhibit A** is a
25 true and correct copy of the Email Notice.

26 9. On December 22, 2023, CPT mailed the Postcard Notice to 4,320 Settlement Class
27 Members who had a valid mailing address but no valid email. Attached hereto as **Exhibit B** is a true
28 and correct copy of the Postcard Notice.

1 10. On January 25, 2024, CPT sent out a reminder notice. The reminder notice closely
2 resembled the original notice and was sent to Settlement Class Members who had not yet submitted
3 either a Claim Form, Objection, or Opt-Out request.

4 11. As of the date of this declaration, 28 Postcard Notices were forwarded to new
5 addresses provided by the post office. To address the undeliverable notices, CPT conducted a skip
6 trace through LexisNexis to obtain better addresses. As a result of the skip trace, 107 Postcards were
7 remailed.

8 **SETTLEMENT WEBSITE**

9 12. CPT established a dedicated settlement website with the domain/URL
10 www.HeirloomRosesSettlement.com, which became operational on December 22, 2023. The
11 settlement website features a page named "Court Documents" that offers links to downloadable
12 versions of the Class Action Complaint, Settlement Agreement, Preliminary Approval Order, Long
13 Form Notice, and Claim Form. Furthermore, the website offers a link for electronic submission of
14 a claim form. True and correct copies of the Long Form Notice and Claim Form, as posted on the
15 website, are attached hereto as **Exhibits C and D**, respectively.

16 13. In addition to what is described above, the settlement website also contains
17 Frequently Asked Questions ("FAQs") and an Important Dates page that lists the case deadlines for
18 submitting a claim form, filing a request for exclusion, or filing an objection, as well as the date of
19 the Final Approval Hearing. CPT will continue to maintain and update the settlement website with
20 relevant documents, including the Final Approval Order and Judgment once entered by the Court,
21 and other information or updates as they become available, or requested by the parties or required
22 by the Court.

23 14. As the date of this declaration, in aggregate, there have been approximately 747
24 views of the website's pages, and 686 unique visitors to the site.

25 **TOLL-FREE PHONE NUMBER**

26 15. CPT established a dedicated, 24-hour, toll free support line with Interactive Voice
27 Response ("IVR") capabilities [1-888-433-0449] that went live on November 3, 2023. Through this
28

number, callers are provided with general and detailed information about the Action; answers to frequently asked questions, information relating to a Settlement Class Members' options under the terms of the settlement, and bilingual, live class member support during normal business hours. This toll-free telephone number is listed in several locations on the settlement website, including the footer and Contact Us page. As of the date of this declaration, the case support line has received a total of 108 calls.

CASE-SPECIFIC EMAIL ADDRESS

16. CPT also established and has maintained a dedicated email address (HeirloomRosesSettlement@cptgroup.com) which Settlement Class Members can use to communicate with CPT regarding the case. As of the date of this declaration, there have been 207 email inquiries received to the case email inbox.

CLAIMS ADMINISTRATION

17. The deadline for Settlement Class Members to submit a Claim is March 21, 2024. Upon receipt of each Claim Form, CPT reviews each Claim Form to determine whether it was valid, invalid, or deficient and required follow up.

18. As of the date of this declaration, CPT received a total of 302 Claims. Below is a breakdown of the benefit type claimed:

a. **Reimbursement for Unauthorized or Fraudulent Charges:** Of the 302 Claims received, 40 claimants applied for the Unauthorized or Fraudulent Charge Benefit.

b. **Reimbursement for Out-of-Pocket Expenses:** Of the 302 Claims received, 263 claimants applied for the Out-of-Pocket Expenses Benefit.

c. **Reimbursement for Credit Reports, Credit Monitoring, or Identity Theft Protection:** Of the 302 Claims received, 7 claimants applied for the Credit Reports, Credit Monitoring or Identity Theft Protection Reimbursement Benefit.

d. **Reimbursement for Lost Time:** Of the 302 Claims received, 264 claimants applied for the Lost Time Reimbursement Benefit.

19. **Invalid Claims:** Two claims were found to be invalid due to being duplicates.

1 20. **Deficient Claims:** Of the 302 claims received, there are currently 51 that are
2 deficient in one or more ways. These deficiencies primarily include invalid supporting
3 documentation or incomplete Claim Forms.

4 21. CPT is currently addressing the deficient claims by sending a letter (by email if
5 available, or mail if only an address is available) to these claimants and providing clear instruction
6 on how to cure their Claim Form deficiency. Claimants are given a period of 21 days from the date
7 the deficiency notice is issued to cure the deficiencies on their Claim Form, and the letter will specify
8 the deadline by when the response must be received.

9 22. CPT will continue to monitor the claims until the Claim Deadline.

10 **REQUESTS FOR EXCLUSION**

11 23. The deadline for Settlement Class Members to exclude themselves from the
12 Settlement Class was February 13, 2024. CPT received one request for exclusion. Attached as
13 **Exhibit E** is a record of the Class Member who submitted an opt-out request.

14 **OBJECTIONS**

15 24. The deadline for Settlement Class Members to file and serve a written objection to
16 the Settlement Agreement likewise was February 13, 2024. CPT has not received any objections.

17 **FURTHER STEPS FOLLOWING FINAL APPROVAL**

18 25. If the Court grants final approval of the Settlement, CPT will handle further steps of
19 settlement administration in accordance with the Settlement Agreement and the Court's order.

20 The total fee for CPT's settlement administration services in this matter will be \$40,000.
21 This total includes all services provided to date as described in this declaration, as well as the tasks
22 required to complete the administration process after final court approval as stated in our bid
23 including, transmitting settlement payments to eligible Class Members, applicable postage, further
24 communications with Class Members, and banking, accounting, and tax reporting activities.
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1 I declare under penalty of perjury under the laws of the United States and State of California
2 that the foregoing is true and correct.

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4 Executed on March 13, 2024, at Irvine, California.


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7 Carole Thompson
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EXHIBIT A

To: [Class Member Email Address]

From: HeirloomRosesSettlement@cptgroup.com

Subject: Notice of Class Action Settlement – Heirloom Roses, Inc. Data Security Incident

Body of Email:

If you were notified of a Data Security Incident involving Heirloom Roses, Inc., you may be entitled to benefits from a settlement.

A proposed settlement has been reached in a class action lawsuit against Heirloom Roses, Inc. (“Heirloom”) related to a security incident that occurred between February and October 2021, and about which Heirloom notified potentially impacted individuals in or around December 2021. The lawsuit claims Heirloom is legally responsible for the Data Security Incident, where names and payment card information of customers may have been accessed and exfiltrated by unauthorized individuals. The lawsuit asserts various legal claims, including negligence and breach of implied contract. Heirloom denies these claims and denies it did anything wrong.

You are receiving this notice because you may be a Settlement Class Member. The Settlement Class is defined by the Court as all individuals within the United States whose name and payment card information was potentially exposed to unauthorized third-parties as a result of the Data Security Incident that occurred between approximately February to October of 2021

Under the terms of the settlement, if you experienced unreimbursed, unauthorized or fraudulent charges or out of pocket expenses which you believe in good faith were fairly traceable to the Data Security Incident, you may file a claim for a Reimbursement Award of up to \$200.

The easiest way to submit a claim is online at **www.HeirloomRosesSettlement.com** using your Unique CPT ID and Passcode found below. To be eligible, you must complete and submit a valid Claim Form, postmarked or submitted online on or before **March 21, 2024**. You can also exclude yourself or object to the Settlement on or before **February 13, 2024**. If you do not exclude yourself from the Settlement, you will remain in the Class and will give up the right to sue Heirloom over the claims resolved in the Settlement. **A summary of your rights under the Settlement and instructions regarding how to submit a claim, exclude yourself or object are available at www.HeirloomRosesSettlement.com.**

Please use the following CPT ID and PASSCODE to submit your Claim Form on the website.

CPT ID: <<ID>>

Passcode: <<Passcode>>

Submit Claim

The Court will hold a Final Approval Hearing on **May 2, 2024, at 1:30 p.m. (PT)**. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also listen to people who have asked to speak at the hearing. You may attend the hearing at your own expense or pay your own lawyer to attend, but it is not necessary. It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check **www.HeirloomRosesSettlement.com**.

This notice is a summary. The Settlement Agreement and more information about the lawsuits and Settlement are available at **www.HeirloomRosesSettlement.com** or by calling toll-free **1-888-433-0449**.

EXHIBIT B

A proposed settlement has been reached in a class action lawsuit against Heirloom Roses, Inc. (“Heirloom”) related to a security incident that occurred between February and October 2021, and about which Heirloom notified potentially impacted individuals in or around December 2021. The lawsuit claims Heirloom is legally responsible for the Data Security Incident, where names and payment card information of customers may have been accessed and exfiltrated by unauthorized individuals. The lawsuit asserts various legal claims, including negligence and breach of implied contract. Heirloom denies these claims and denies it did anything wrong.

You are receiving this notice because you may be a Settlement Class Member. The Settlement Class is defined by the Court as all individuals within the United States whose name and payment card information was potentially exposed to unauthorized third-parties as a result of the Data Security Incident that occurred between approximately February to October of 2021.

Under the terms of the settlement, if you experienced unreimbursed, unauthorized or fraudulent charges or out of pocket expenses which you believe in good faith were fairly traceable to the Data Security Incident, you may file a claim for a Reimbursement Award of up to \$200.

The easiest way to submit a claim is online at **www.HeirloomRosesSettlement.com** using your Unique CPT ID and PASSCODE found on the front of this postcard. To be eligible, you must complete and submit a valid Claim Form, postmarked or submitted online on or before **March 21, 2024**. You can also exclude yourself or object to the Settlement on or before **February 13, 2024**. If you do not exclude yourself from the Settlement, you will remain in the Class and will give up the right to sue Heirloom over the claims resolved in the Settlement. **A summary of your rights under the Settlement and instructions regarding how to submit a claim, exclude yourself or object are available at www.HeirloomRosesSettlement.com.**

The Court will hold a Final Approval Hearing on **May 2, 2024, at 1:30 p.m.** At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also listen to people who have asked to speak at the hearing. You may attend the hearing at your own expense or pay your own lawyer to attend, but it is not necessary. It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check **www.HeirloomRosesSettlement.com**.

This notice is a summary. The Settlement Agreement and more information about the lawsuits and Settlement are available at **www.HeirloomRosesSettlement.com** or by calling toll-free **1-888-433-0449**.

PLACE
STAMP
HERE

Zucchero v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

Zuccherò v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

PRESORTED
First Class
US Postage
PAID
PBPS

If you were notified of a Data Security Incident involving Heirloom Roses, Inc., you may be entitled to benefits from a settlement.

ELECTRONIC SERVICE REQUESTED

Please use the CPT ID and Passcode located above your mailing address to access your Claim Form on the Settlement Website.

CPT ID: «ID»
Passcode: «Passcode»
«FullName»
«Address1»
«City», «State» «Zip»
«IMBarcode»

CHANGE OF ADDRESS FORM

Please provide your correct name and current address (if different) here and return the postcard.

THIS SUBMISSION IS ONLY FOR AN ADDRESS UPDATE. IT DOES NOT CONSTITUTE A SUBMISSION OF A CLAIM.

CPT ID: «ID»
Former Name _____
New Name _____
Address _____
City, State, Zip _____

EXHIBIT C

NOTICE OF CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

Jami Zuccherro v. Heirloom Roses, Inc., Case No. 4:22-cv-00068-KAW

To: All individuals identified by Heirloom Roses, Inc. (“Heirloom”) and to whom Heirloom sent notice on or about December 16, 2021, that their information may have been impacted in the Data Security Incident, defined below.

A proposed settlement has been reached in a class action lawsuit titled, *Jami Zuccherro v. Heirloom Roses, Inc.*, Case No. 4:22-cv-00068-KAW (Northern District of California). The lawsuit asserts claims against Defendant Heirloom related to a security incident that occurred between February and October of 2021 and about which Heirloom notified potentially impacted individuals in December 2021 (the “Data Security Incident”). Defendant denies all of the claims and denies it did anything wrong.

The settlement offers payments to individuals in the United States whose name and payment card information was potentially exposed to unauthorized third-parties as a result of the Data Security Incident that occurred between approximately February to October of 2021 (“Settlement Class Members”). The amounts paid will depend upon how many people submit valid claims but initially are set at the following amounts:

A Reimbursement Award of up to **\$200**, as explained below.

If you are a Settlement Class Member, your options are:

SUBMIT A CLAIM FORM DEADLINE: MARCH 21, 2024	You must submit a valid claim form to receive a payment from this Settlement.
DO NOTHING	You will receive no payment and will no longer be able to sue Defendant over the claims resolved in the settlement.
EXCLUDE YOURSELF DEADLINE: FEBRUARY 13, 2024	You may exclude yourself from this settlement and keep your right to sue separately. If you exclude yourself, you receive no payment. Exclusion instructions are provided in this Notice.
OBJECT DEADLINE: FEBRUARY 13, 2024	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the settlement by following the instructions in this Notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the settlement.

The Court must give final approval to the settlement before it takes effect but has not yet done so. No payments will be made until after the court gives final approval and any appeals are resolved.

Please review this Notice carefully. You can learn more about the settlement by visiting www.HeirloomRosesSettlement.com or by calling 1-888-433-0449.

Further Information about this Notice and the Lawsuit

1. Why was this Notice issued?

Settlement Class Members are eligible to receive payment from a proposed settlement of the Lawsuit. The court overseeing the Lawsuit pending in the Northern District of California authorized this Notice to advise Settlement Class Members about the proposed settlement that will affect their legal rights. This Notice explains certain legal rights and options Settlement Class Members have in connection with the settlement.

2. What is the Lawsuit about?

The lawsuit is a proposed class action lawsuit brought on behalf of certain Heirloom customers whose information may have been accessed and exfiltrated by unauthorized individuals as part of the Data Security Incident. The affected information may include names and payment card information.

The Lawsuit claims Heirloom is legally responsible for the Data Security Incident and asserts legal claims, including negligence and breach of contract. Heirloom denies these claims and denies it did anything wrong.

3. Why is the Lawsuit a class action?

In a class action, one or more representative plaintiffs brings a lawsuit on behalf of others who have similar claims. Together, all of these people are the “Class” and each individually is a “Class Member.” There is one Representative Plaintiff in this case: Jami Zuccherro. The class in this case is referred to in this Notice as the “Settlement Class.”

4. Why is there a settlement?

The Representative Plaintiff in the Lawsuit, through her attorneys, investigated the facts and law relating to the issues in the Lawsuit. Representative Plaintiff and Class Counsel believe the settlement is fair, reasonable and adequate and will provide substantial benefits to the Settlement Class. The Court has not decided whether the Representative Plaintiff’s claims or Heirloom’s defenses have any merit, and it will not do so if the proposed settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial and people who submit valid claims will receive compensation. The settlement does not mean that Heirloom did anything wrong, or that the Representative Plaintiff and the Class would or would not win their case if it went to trial.

Terms of the Proposed Settlement

5. Who is in the Settlement Class?

The Settlement Class is defined by the Court as all individuals within the United States whose name and payment card information was potentially exposed to unauthorized third-parties as a result of the Data Security Incident that occurred between approximately February to October of 2021. Excluded from the Settlement Class is any judge presiding over the Litigation and any members of their first-degree relatives, judicial staff and/or persons who timely and validly request exclusion from the Settlement Class.

6. What are the terms of the settlement?

Under the terms of the settlement, if Settlement Class Members experienced unreimbursed, unauthorized or fraudulent charges or out of pocket expenses which they believe in good faith were fairly traceable to the Data Security Incident, they may file a claim for a Reimbursement Award of up to \$200. As part of the \$200 reimbursement, if Settlement Class Members spent time researching the Data Security Incident or attempting to ensure the security of their information, they may file a claim for a Reimbursement Award for up to 2 hours of time spent at \$20 per hour. Defendant will pay (a) the costs of administration and notice (approximately \$40,000),

(b) any attorneys' fees and costs awarded by the Court to Class Counsel (up to \$198,500) including litigation costs and expenses, and (c) any service award to the Representative Plaintiff awarded by the Court (up to \$1,500). The settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Data Security Incident, as detailed in the Class Settlement Agreement and Release.

7. *What claims are Settlement Class Members giving up under the settlement?*

Settlement Class Members who do not validly exclude themselves from the settlement will be bound by the Class Settlement Agreement and Release and any Final Judgment entered by the Court and will give up their right to sue Defendant for the claims being resolved by the settlement, including all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Data Security Incident. The claims that Settlement Class Members are releasing are described in Section 1.29 of the Class Settlement Agreement and Release and the persons and entities being released from those claims are described in Section 1.30 of the Class Settlement Agreement and Release. Section 8 of the Class Settlement Agreement and Release explains when such releases will occur.

Payments to Settlement Class Members

8. *What kind of payments can Settlement Class Members receive?*

Under the terms of the settlement, if Settlement Class Members experienced unreimbursed, unauthorized or fraudulent charges or out of pocket expenses which they believe in good faith were fairly traceable to the Data Security Incident, They may file a claim for a Reimbursement Award of up to \$200. As part of the \$200 reimbursement, if Settlement Class Members spent time researching the Data Security Incident or attempting to ensure the security of their information, they may file a claim for a Reimbursement Award for up to 2 hours of time spent at \$20 per hour.

9. *What is a Reimbursement Award?*

Settlement Class Members who, at any time from February 1, 2021 to March 21, 2024, experienced unauthorized or fraudulent charges, other out of pocket losses or lost time that are fairly traceable to the Data Security Incident are eligible to receive a Reimbursement Award of up to \$200 as reimbursement for those charges and expenses. The following types of expenses may be claimed:

- payment card fees or bank fees, including card reissuance fees, overdraft fees, charges related to unavailability of funds, late fees, over-limit fees and fees relating to an account being frozen or otherwise unavailable due to the Data Security Incident;
- costs or charges for obtaining credit reports, credit freezes or credit monitoring or identity theft protection services; and
- Lost time at \$20 per hour up to two hours for a total of \$40.

You cannot recover for emotional distress. Claimants must exhaust all available credit monitoring insurance and identity theft insurance before seeking a Reimbursement Award. Settlement Class Members seeking a Reimbursement Award must provide the information and documents required on the Claim Form.

Your Options as a Settlement Class Member

10. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the settlement. **However, if you wish to seek an award under the settlement, you must complete and submit a Claim Form postmarked or submitted online at www.HeirloomRosesSettlement.com by March 21, 2024.**

If you do not want to give up your right to sue Defendant about the Data Security Incident or the issues raised in this case, **you must exclude yourself (or “opt out”) from the Settlement Class.** See Question 14 below for instructions on how to exclude yourself.

If you wish to object to the settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 17 below for instructions on how to submit an objection.

11. What happens if I do nothing?

If you do nothing, you will get no award from this settlement. Unless you exclude yourself, after the settlement is granted final approval and the judgment becomes final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit or be part of any other lawsuit against Defendant related to the claims released by the settlement.

12. How do I submit a claim?

You may complete the Claim Form online at www.HeirloomRosesSettlement.com. You may also obtain a paper Claim Form by downloading it at www.HeirloomRosesSettlement.com or by calling the claims administrator at **1-888-433-0449**. If you choose to complete a paper Claim Form, you may either submit the completed and signed Claim Form and any supporting materials electronically at www.HeirloomRosesSettlement.com or mail them to:

Zuccherro v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

13. Who decides my settlement claim and how do they do it?

The Claims Administrator will decide whether a Claim Form is complete and valid and includes all required documentation. The Claims Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

14. How do I exclude myself from the settlement?

To opt out of the settlement you must make a signed, written request that (a) says you wish to exclude yourself from the Settlement Class in this Lawsuit and (b) includes your name, address and phone number. You must submit your request through the settlement website (www.HeirloomRosesSettlement.com) or mail your request to this address:

Zuccherro v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

Your request must be submitted online or postmarked by **February 13, 2024.**

15. *If I exclude myself, can I receive any payment from this settlement?*

No. If you exclude yourself, you will not be entitled to any award. However, you will also not be bound by any judgment in this Lawsuit.

16. *If I do not exclude myself, can I sue Defendant for the Data Security Incident later?*

No. Unless you exclude yourself, you give up any right to sue Heirloom for the claims that this settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form requesting a payment.

17. *How do I object to the settlement?*

All Settlement Class Members who do not request exclusion from the Settlement Class have the right to object to the settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing and it and any supporting papers must be mailed solely to the Clerk of the Court at the mailing addresses listed below. Your objection must be filed or postmarked no later than the objection deadline, **February 13, 2024**:

Office of the Clerk
U.S. District Court for the Northern District of California
Ronald V. Dellums Federal Building
& United States Courthouse
1301 Clay Street, Suite 400 S
Oakland, California 94612

To be considered by the Court, your objection must list the name of the Lawsuit: *Jami Zuccherro v. Heirloom Roses, Inc.*, Case No. 4:22-cv-00068-KAW (Northern District of California) and include all of the following information: (a) your full name, address, telephone number and e-mail address (if any), (b) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (such as the notice you received from Heirloom or the notice of this settlement), (c) a statement as to whether your objection applies only to yourself, to a specific subset of the Settlement Class or to the entire class, (d) a clear and detailed written statement of the specific legal and factual bases for each and every objection, accompanied by any legal support for the objection you believe is applicable, (e) the identity of any counsel representing you, (f) a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying that counsel, (g) a list of all persons who will be called to testify at the Final Approval Hearing in support of your objections and any documents to be presented or considered and (h) your signature and the signature of your duly authorized attorney or other duly authorized representative (if any).

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

18. *How, when and where will the Court decide whether to approve the settlement?*

The Court will hold a Final Approval Hearing to decide whether to approve the settlement. That hearing is scheduled for **May 2, 2024 at 1:30 p.m. (PT)** at the Oakland Courthouse, 1301 Clay Street Oakland, California 94612, before Judge Kandis A. Westmore. Judge Westmore will continue to hold hearings by Zoom or teleconference until further notice. Please visit Judge Westmore's page at <https://www.cand.uscourts.gov/judges/westmore-kandis-a-kaw/> for current information regarding courthouse access and court hearings. At the Final Approval Hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Settlement Class Counsel's request for attorneys' fees and costs and the request for the service award for the Representative Plaintiff. After the hearing, the Court will decide whether to approve the settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check www.HeirloomRosesSettlement.com or access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov/cgi-bin/ShowIndex.pl> to confirm the schedule if you wish to attend.

19. *Do I have to attend the hearing?*

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 17. You or your own lawyer are welcome to attend the hearing at your expense but are not required to do so.

20. *What happens if the Court approves the settlement?*

If the Court approves the settlement and no appeal is taken the Claims Administrator will pay any attorneys' fees and costs award and Representative Plaintiff's service award. Then, within the later of 30 days after the Effective Date or 30 days after all disputed claims have been resolved, the Claims Administrator will send settlement payments to Settlement Class Members who submitted timely and valid Settlement Claims. If any appeal is taken, it is possible the settlement could be disapproved on appeal.

21. *What happens if the Court does not approve the settlement?*

If the Court does not approve the settlement, there will be no settlement payments to Settlement Class Members, Settlement Class Counsel or the Representative Plaintiff and the case will proceed as if no settlement had been attempted.

Lawyers for the Settlement Class and Defendant

22. *Who represents the Settlement Class?*

The Court has appointed the following Class Counsel to represent the Settlement Class in this Lawsuit:

Scott Edward Cole
COLE & VAN NOTE
555 12th Street, Suite 2100
Oakland, California 94607
(510) 891-9800

Settlement Class Members will not be charged for the services of Settlement Class Counsel. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

23. *How will the lawyers for the Settlement Class be paid?*

Settlement Class Counsel will request the Court's approval of an award for attorneys' fees and costs up to \$198,500. Settlement Class Counsel will also request approval of a Service Award of \$1,500 to Representative Plaintiff.

24. *Who represents Defendant in the Lawsuit?*

Defendant is represented by the following lawyers:

Spencer Persson
Jean M. Fundakowski
DAVIS WRIGHT TREMAINE LLP
865 S. Figueroa Street, Suite 2400
Los Angeles, California 90017

For Further Information

25. *What if I want further information or have questions?*

This Notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the Class Settlement Agreement and Release available at **www.HeirloomRosesSettlement.com**, by contacting Settlement Class Counsel at the phone number provided in response to Question 22 above, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov/cgi-bin/ShowIndex.pl> or by visiting the Office of the Clerk, U.S. District Court for the Northern District of California, at the Ronald V. Dellums Federal Building & United States Courthouse at 1301 Clay Street, Suite 400 S, Oakland, California 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

CPT Group, Inc. will act as the Claims Administrator for the settlement. You can contact the Claims Administrator at:

Zuccherro v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Telephone: 1-888-433-0449
Email: HeirloomRosesSettlement@cptgroup.com

Please do not contact the Court.

EXHIBIT D

SETTLEMENT CLAIM FORM

This Claim Form should be filled out online or submitted by mail if you received a notice from Heirloom Roses, Inc. (“Heirloom”) in or around December 2021 regarding a data security incident that occurred at Heirloom between February of 2021 and October of 2021 (the “Data Security Incident”), or if you otherwise believe you were affected by the Data Security incident.

You may receive a payment if you properly and timely complete this Claim Form, the settlement is approved and you are found to be eligible for a payment.

The Notice describes your legal rights and options. You can obtain the Notice and further information about the Litigation, the Class Settlement Agreement and Release and your legal rights and options on the official settlement website, www.HeirloomRosesSettlement.com, or by calling 1-888-433-0449.

Your claim must be submitted online or postmarked by March 21, 2024 to be considered for payment. You can submit your claim for a settlement award in two ways:

1. Online at www.HeirloomRosesSettlement.com by following instructions on the “Submit a Claim” page; or
2. By mail to the Claims Administrator at this address:

Zuccherro v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

Only one Settlement Claim may be submitted per Settlement Class Member.

1. CLASS MEMBER INFORMATION (REQUIRED)

Name (First, MI, Last): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____

2. PAYMENT ELIGIBILITY INFORMATION (REQUIRED)

For more information about this Section of the Claim Form and the types of awards available and rules for receiving an award, please review the Notice and Sections 2.1 through 2.5 of the Class Settlement Agreement and Release (available at www.HeirloomRosesSettlement.com). You may select any or all of the awards for which you are eligible.

All Settlement Class Members who incurred Out-of-Pocket expenses fairly traceable to the Data Security Incident may claim a Reimbursement Award of up to \$200. If you are claiming a Reimbursement Award, check this box:

☐ Reimbursement Award (complete Sections 3, 4, 5 and 6)

3. ADDITIONAL INFORMATION REQUIRED FROM SETTLEMENT CLASS MEMBERS SEEKING A REIMBURSEMENT FOR UNAUTHORIZED OR FRAUDULENT CHARGES IN CONNECTION WITH A REIMBURSEMENT AWARD.

You must complete this Section 3 if you are seeking a Reimbursement Award. Please provide as much information as possible.

☐ **Required:** I attest under penalty of perjury that I experienced one or more unauthorized or fraudulent charges from February 1, 2021 through December 31, 2021.

☐ **Required:** Such charges have not been reimbursed.

☐ **Required:** I believe in good faith such charges were more likely than not the result of the Data Security Incident described in the Notice.

The total amount of unreimbursed fraudulent charges that I am claiming is \$_____

Examples: Fraudulent charges that were made on your credit or debit card account and that were not reversed or repaid even though you reported them to your bank or credit card company.

Required: Attach a copy of statements that show the fraudulent charges and correspondence showing that you reported them as unauthorized. (You may redact all unrelated transactions). Attach documentation showing that the expenses are fairly traceable to the Security Incident. Attach documentation showing that your requests for reimbursement were denied. Please describe below when and how you reported them and to whom you reported them (attach pages as necessary):

☐ (**Required**). I have made good faith efforts to have these unauthorized charges reversed or repaid, including through my bank or credit card company and have exhausted all available credit monitoring, identity theft insurance or other applicable insurance policies, but have not been successful at having the charges reversed, have not received payment and have no insurance coverage for these unauthorized charges.

If you are seeking reimbursement for Out-of-Pocket Expenses as part of your claim for a Reimbursement Award, complete Section 4.

4. ADDITIONAL INFORMATION REQUIRED FROM SETTLEMENT CLASS MEMBERS SEEKING REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES IN CONNECTION WITH A REIMBURSEMENT AWARD.

☐ I attest under penalty of perjury that I am making a claim for a Reimbursement Award, and that I incurred between February 1, 2021 and December 31, 2021 the following Out-of-Pocket Expenses fairly traceable to the Security Incident that affected the Heirloom website described in the Notice.

Check all that apply, stating the total amount you are claiming for each category and attaching documentation of the charges as described below. Round total amounts to the nearest dollar.

☐ Unreimbursed payment card fees or bank fees:

Total amount claimed for this category: \$_____

Examples: Unreimbursed card reissuance fees, unreimbursed overdraft fees, unreimbursed charges related to unavailability of funds, unreimbursed late fees, unreimbursed over-limit fees and unreimbursed fees relating to an account being frozen or otherwise unavailable due to the Security Incident.

Required: A copy of a bank or credit card statement or other proof of claimed fees or charges (please redact unrelated transactions).

☐ Unreimbursed costs or charges for obtaining credit reports, credit freezes or credit monitoring or identity theft protection services purchased between February 1, 2021 and December 16, 2021:

Total amount claimed for this category: \$_____

Examples: The cost of purchasing a credit report or placing a credit freeze.

Required: A copy of a receipt of other proof of purchase for each credit report, credit freeze or credit monitoring or identity theft protection services (up to two years of coverage) purchased or placed.

☐ Lost time:

Total amount claimed for this category (\$20 per hour for up to two hours for a total of up to \$40):
\$_____

Examples: Time spent researching the Security Incident

Required: By submitting a claim for lost time, I certify that my claim is true and correct.

5. PAYMENT METHOD

Your payment will be issued for your valid Claim by Paper Check via mail. If you prefer an electronic payment, please submit a Claim online at www.HeirloomRosesSettlement.com.

6. CERTIFICATION

The information I have supplied in this Claim Form is true and correct to the best of my recollection and this form was executed on the date set forth below.

I understand all information provided on this Claim Form is subject to verification and that I may be asked to provide supplemental information by the Claims Administrator before my claim will be considered complete and valid.

Signature: _____

Print Name: _____

Date: _____

Once you've completed all applicable sections, please mail this Claim Form and all required supporting documentation to the address provided below, postmarked by March 21, 2024.

Zuccherro v. Heirloom Roses, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

EXHIBIT G

MailingListID	ClaimNo	EmployeeName	OptOut
50963	7	Teo, Wendy	TRUE